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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,681	11/19/2001	Peter A. Goode	68.0176	5874

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EXAMINER

DANG, HOANG C

ART UNIT PAPER NUMBER

3672

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/992,681

Applicant(s)

GOODE ET AL.

Examiner

Hoang Dang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-81 is/are pending in the application.
- 4a) Of the above claim(s) 6,9,16,19,21-30,57-60 and 79-81 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50-56 is/are allowed.
- 6) ☒ Claim(s) 1-5,7,8,10-15,17,18,20,31,35,41-45,48,61-63,65-69,71,72 and 75-78 is/are rejected.
- 7) ☒ Claim(s) 32-34,36-40,46,47,49,64,70,73 and 74 is/are objected to.
- 8) ☒ Claim(s) 6,9,16,19,21-30,57-60 and 79-81 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4 & 14.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I and the species of Figures 2-12 (claims 1-5, 7, 8, 10-15, 17, 18, 20, 31-56, 61, 62, 64-68 and 70-78 in the reply filed on 03/29/2004 is acknowledged.
2. Claims 6, 9, 16, 19, 21-30, 57-60, 63, 69 and 79-81 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention / species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 03/29/2004.

### *Claim Objections*

Claims 46 and 47 are objected to because of the following informalities: The term "the punch" in line 2 of claims 46 and 47 has no antecedent basis. It appears these claims are meant to depend on claim 42, respectively . Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

3. Claim 54 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to disclose how a shaped charge is actuated in response to the setting of the packer as recited in base claim 50, lines 4-5.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5, 7, 8, 10, 11, 14, 15, 17, 18, 20, 41, 43-45, 48, 61-63, 65-69, 71, 72 and 75-78 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tubel et al (US 5,732,776) (see column 6, lines 34-56).

As for claims 2 and 12, see spaced apart packers in Figures 2 and 3.

As for claims 3, 10 and 76, the "adapted to" phrase is given no patentable weight.

As for claims 4 and 14, see "tubing" in Figures 2-3 and 14.

As for claim 5, see sensors 58A, 58B and 58C, 58D, 58E and 58F in Figure 3.

As for claims 8, 18, 45, 66 and 77, see column 14, lines 60-66.

As for claims 15 and 78, see Figure 14.

As for claims 20, see perforating tools 81 and column 17, line 2.

As for claims 41, 43-45, 48, 61-63, 65-69, 71, 72, see spaced apart packers 71 and 77 and puncture device (i.e., perforating tools 81) and sensors 58A-58F in Tubel et al.

6. Claims 31, 35, 41, 42, 44, 45, 48 and 75-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Thiercelin (GB 2,250,826).

The claimed structure reads exactly on the reference's when members (30), (24) and (14,16) of Thiercelin are respectively considered as "punch", "sensor" and "packers". It is noted

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that an intended use or a functional statement (e.g., to be positioned inside a passageway of a casing and pierce the casing) is given no patentable weight. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279.

7. Claims 1, 2, 3, 4, 7, 8, 10, 11, 12, 13, 14, 17, 18, 75, 76 and 77 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cooke, Jr (US 5,509,474) (see figures 3 and 4 and column 7, lines 21-58 and column 9, lines 44-62).

#### ***Allowable Subject Matter***

8. Claims 50-56 are allowed.

9. Claims 32-34, 36-40, 46, 47, 49, 64, 70, 73 and 74 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

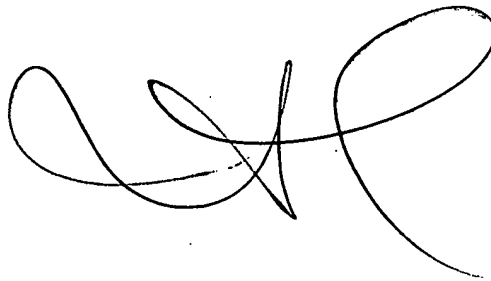
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang Dang whose telephone number is 703-308-2149. The examiner can normally be reached on 9:15-5:45 Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Bagnell can be reached on 703-308-2151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hoang Dang  
Primary Examiner  
Art Unit 3672

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke, positioned below the printed name and title.